IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL SIDE APPELLATE JURISDICTION

FIRST APPEAL NO.743 OF 2004

Employees State Insurance Corpn. — Appellants
vs.
Mittal Court Premises Co-operative Society Ltd. — Respondents

Mr.C.U.Singh, Sr. Counsel with Mr.R.M.Jayakar and Miss Dimple Mehta i/b.M/s.M.V.Jaykar & Co. for the appellants.

Mr.Rajesh Gehani for the respondents.

CORAM : ANOOP V. MOHTA,J.

DATED : 2nd November, 2007

JUDGMENT:

The appellant is a Corporation incorporated under ESI Act, 1948 and administrating the Act. The respondent is a Co-operative Society incorporated and registered under the Maharashtra Cooperative Societies Act, 1960 having its registered office at Tulsiani Chambers, 212, Nariman Point, Bombay-400021.

2. On 3.4.1986 an inspector from the appellants visits the respondents' premises for inspection.

3. On 8.9.1988 the appellant sends a letter in form C-11 to the respondent to furnish complete and correct information in respect of the respondent society. A code number is also allotted to the respondent.

4. On 31.1.1989, the appellants sent a letter to the respondent reminding non payment of contributions and requesting immediate payment thereof.

5. On 17.1.1989, a show cause notice in form C-18 was issued to the respondent by the appellants. A show cause notice to show why the employer should not be prosecuted under section 85 of the Employees State Insurance Act (ESI Act) was also issued to the respondent.

6. On 15.6.1989, Writ Petition No.998 of 1989 filed by the respondents, was dismissed at time of admission allowing the respondent to pursue alternative remedy by applying to the ESI Court.

7. On 12.7.1989 Application (ESI) No.123 of 1989 was filed by the respondent against the appellants before the ESI Court at Bombay.

8. On 5.3.2004, the application is allowed and judgement is passed holding that the respondent is not covered under the Act and quashing the demand notice claiming contribution of Rs.1,20,789/-. Hence this appeal.

10. In view of the reasoning given in the judgment

dated 2nd November, 2007 in First Appeal No.844 of 2004 along with other First Appeals, this First Appeal is also dismissed and disposed of accordingly.

. No order as to costs.

[ANOOP V. MOHTA,J.]